

# PLANNING COMMISSION MINUTES

August 28, 2002

**CALL TO ORDER:** Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:** Present were Chairman Vlad Voytilla, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, and Scott Winter. Planning Commissioner Bob Barnard was excused.

Senior Planner Alan Whitworth, Associate Planner Scott Whyte, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

## **VISITORS:**

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

## **STAFF COMMUNICATION:**

Staff indicated that there were no communications at this time.

## **NEW BUSINESS:**

Chairman Voytilla opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1           **PUBLIC HEARINGS:**

2  
3           **A. CPA2002-0009/RZ2002-0017 - SW KOLL PARKWAY LAND USE**  
4           **MAP AMENDMENT AND REZONE**

5           This proposal is to amend the Land Use Map in the Comprehensive  
6           Plan and Zoning Map to designate ten parcels being annexed into the  
7           City, by a separate process, Station Community on the Land Use Map  
8           and Station Community: Employment (SC: E) on the Zoning Map in  
9           place of the current Washington County designation of Transit  
10          Oriented: Employment and to amend the “Merlo Station Community  
11          Plan Figure 1 Land Use Subarea Map” in Volume V of the  
12          Comprehensive Plan to show these parcels as Employment Subarea 3.  
13          These parcels are contiguous. Their tax lots identifications are Map  
14          1S105AC, Lots 00300, 00400, 00500, 00600, 00700, 00900 and 01000;  
15          Map 1S105DB, Lots 00100 and 00200; and Map 1S105AD, Lot 06800.

16  
17          Commissioners Maks and Bliss indicated that while he had not had  
18          the opportunity to visit, they are familiar with the site.

19  
20          Observing that he had visited the site, Commissioner Pogue stated  
21          that he had no contact with any individual(s) with regard to this  
22          application.

23  
24          Chairman Voytilla commented that he is very familiar with this site  
25          because he had operated an office in the area, adding that a recent site  
26          visit had not resulted in any contact with any individual(s) with regard  
27          to this application.

28  
29          Commissioners Johansen and Winter both indicated that they had  
30          driven through the site and had no contact with any individual(s) with  
31          regard to this application.

32  
33          Senior Planner Alan Whitworth presented the Staff Report, observing  
34          that he is also representing the applicant, the City of Beaverton, and  
35          offered to respond to questions.

36  
37          Referring to Development Code Section 20.20.15, which is referenced  
38          on the bottom of page 6 of the Staff Report Commissioner Pogue asked  
39          if this citation was incorrect because he was unable to locate it.

40  
41          Mr. Whitworth explained that the citation was correct, adding that it  
42          is in the Development Code. He pointed out that the referenced map is  
43          located in Volume 5 of the new Comprehensive Plan, adding that he

1 believes that this was adopted recently with the new Comprehensive  
2 Plan.

3

4 Chairman Voytilla observed that this section does not appear to be  
5 within the desk copies of the Development Code either.

6

7 Mr. Whitworth offered to go upstairs for his copy of the Development  
8 Code.

9

10 Commissioner Pogue questioned where the Station Community-  
11 Employment (SC-E) district is referenced within the Comprehensive  
12 Plan.

13

14 Mr. Whitworth clarified that this information is located in the  
15 Development Code under zoning categories.

16

17 Commissioner Maks requested clarification of where the zoning  
18 designation SC-E is located within the Development Code.

19

20 Mr. Whitworth pointed out that this information starts on page  
21 LU-122.

22

23 Commissioner Maks questioned the date of the updated Development  
24 Code pages.

25

26 Mr. Whitworth advised Commissioner Maks that the updated pages  
27 are dated February 8, 2002.

28

29 Commissioner Maks informed Mr. Whitworth that the books on the  
30 dais and at home have not been updated to that date.

31

32 Commissioner Maks observed that the books on the dais are only  
33 updated through September 28, 2000.

34

35 Commissioner Pogue pointed out that he had reviewed all of the  
36 individual updates to determine whether the necessary information  
37 had been received, emphasizing that this could easily have a bearing  
38 on the ability of the Planning Commission to make a decision.

39

40 Chairman Voytilla noted that it is difficult to make a decision when  
41 the appropriate information is not available for review.

42

1 Commissioner Maks stated that although he is aware that the SC-E  
2 zoning designation has been adopted, this information has not been  
3 updated in the Development Code.

4  
5 Commissioner Pogue questioned whether notification to Washington  
6 County is required in this particular situation.

7  
8 Mr. Whitworth advised Commissioner Pogue that there is a mailing  
9 list of individuals and agencies receiving this notification, adding that  
10 he is fairly certain that because the City of Beaverton considers this  
11 street maintenance to be the responsibility of Washington County,  
12 they are most likely receiving this notification. Following a review of  
13 information with regard to this application, he verified that this  
14 notification had been sent to the Washington County Department of  
15 Land Use and Transportation.

16  
17 Referring to page 7 of the Staff Report, Commissioner Pogue pointed  
18 out that the Summary Finding indicates that staff finds that the  
19 requested Comprehensive Plan Change to Corridor is consistent with  
20 the Statewide Planning Goals and that the requirements of Criterion  
21 1.3.1.1 are met.

22  
23 Mr. Whitworth clarified that this paragraph should be revised to  
24 reflect Station Community, rather than Corridor.

25  
26 Observing that this particular property has been proposed to be  
27 included in the Merlo Station Community, Commissioner Johansen  
28 pointed out that this is located quite a distance from the existing Merlo  
29 Station Community. Expressing his opinion that this seems out of  
30 character, he noted that this is located more than a half mile from the  
31 nearest light rail station and is not contiguous to what is located there  
32 at this time. He emphasized that he is concerned with whether this is  
33 the appropriate zoning designation for this particular situation.

34  
35 Mr. Whitworth explained that staff is attempting to match the  
36 Washington County Plan designation as closely as possible, noting that  
37 this had been previously designated as a transit-oriented area, adding  
38 that the Station Community: Employment was written specifically to  
39 match the County's Transit Oriented: Employment designation.  
40 Emphasizing that the Urban Planning Area Agreement provides for  
41 application of the most similar zoning designation, he pointed out that  
42 the recommendation merely reflects the decision of Washington  
43 County.

44

1 Commissioner Johansen requested clarification of the criteria with  
2 regard to distance involving light rail stations, observing that he  
3 remembers that the distance of either  $\frac{1}{2}$  or  $\frac{1}{4}$  of a mile had evolved  
4 over time.

5

6 Mr. Whitworth explained that several years before, it had been  
7 determined that  $\frac{1}{2}$  mile for station areas was appropriate, adding that  
8 this is not the issue at this time. He pointed out that the Urban  
9 Planning Area Agreement generally requires the City of Beaverton to  
10 apply zoning designations that are most similar to what was originally  
11 determined by Washington County, adding that this basically assumes  
12 that the County had gone through the proper planning process when  
13 they had initiated these designations. He pointed out that he had not  
14 considered whether or not Washington County had applied an  
15 appropriate designation.

16

17 Commissioner Johansen commented that according to the UPAA, one  
18 must assume that this designation had been determined and applied  
19 correctly.

20

21 Mr. Whitworth noted that if circumstances change, possibly a different  
22 recommendation, as was done with Hocken/Jenkins, might be  
23 considered appropriate.

24

25 Commissioner Johansen pointed out that the Planning Commission is  
26 addressing this particular issue because some discretion is allowed.

27

28 Mr. Whitworth stated that the Planning Commission is reviewing this  
29 application because the UPAA is not specific and the City of Beaverton  
30 has not yet updated zoning districts to match up with Washington  
31 County's. He noted that at some future point, districts will match and  
32 the UPAA will be rewritten so that one district will automatically be  
33 converted to another, and the application would go to the first reading  
34 at the City Council level.

35

36 Commissioner Johansen questioned whether staff had reviewed other  
37 potential zoning options for this particular property.

38

39 Mr. Whitworth advised Commissioner Johansen that staff had not  
40 considered other potential zoning options for this property,  
41 emphasizing that they had simply applied the UPAA recommendation.  
42 He explained that the SC-E designation had been prepared specifically  
43 to match the Transit-Oriented Employment district, which is the

1 current zoning on these properties, adding that this is why other  
2 options had not been considered.

3

4 Chairman Voytilla mentioned that he is curious whether the properties  
5 in this area have had the opportunity to express their opinion with  
6 regard to what zoning designations should be applied.

7 Mr. Whitworth explained that the property owner has retained Ed  
8 Sullivan, who is a well-known planning lawyer, adding that although  
9 copies of the information have been submitted to him for review, there  
10 has not yet been any response. He further explained that the property  
11 owner had appeared to be satisfied with the zoning designation that  
12 had been proposed, noting that the owner would also have the future  
13 option of submitting an application for a change.

14

15 Commissioner Maks requested clarification of whether this property  
16 could be designated SC-E without being included in the Merlo Station  
17 Community Plan, emphasizing that because the property is located too  
18 far from the station, he has a problem with associating this property  
19 with the station.

20

21 Mr. Whitworth advised Commissioner Maks that it is possible to  
22 designate this property SC-E without including it in the Merlo Station  
23 Community Plan, adding that the northern edge of this property is  
24 approximately one mile from the Merlo Station.

25

26 Observing that this issue involves both a Comprehensive Plan  
27 Amendment (CPA) and a Rezone, Commissioner Johansen emphasized  
28 that any action needs to be procedurally correct, and questioned  
29 whether it would be appropriate to exclude the CPA.

30

31 Observing that the Merlo Station Community Plan is also part of the  
32 Comprehensive Plan, Assistant City Attorney Ted Naemura  
33 emphasized that the Planning Commission is not being asked to  
34 restudy the Merlo Station Planning effort and is not in a position to  
35 second-guess the wisdom of a decision of Washington County.

36

37 Commissioner Johansen questioned whether it is possible to approve  
38 the Rezone without approving the CPA.

39

40 Mr. Naemura noted that the Rezone and CPA are all one and the  
41 same.

42

43 Commissioner Maks reiterated that it has been determined that it is  
44 possible to approve both the CPA and the Rezone without including

1 this area in the Merlo Station Community Plan, adding that this  
2 should be clearly stated within any motion.

3  
4 Mr. Whitworth offered to give him his copy of the Development Code in  
5 order to address Commissioner Pogue's questions.

6  
7 Commissioner Pogue indicated that although he had originally  
8 intended to review this information, he is comfortable that counsel has  
9 addressed his concerns, adding that he would like to receive the  
10 appropriate updates as quickly as possible.

11  
12 Mr. Whitworth assured members of the Planning Commission that he  
13 would address the issue of the Development Code updates with  
14 appropriate staff the following day.

15  
16 Mr. Naemura explained that because there appears to be some conflict  
17 between the UPAA and the new Comprehensive Plan policies, it  
18 becomes necessary to basically chart a middle ground, adding that this  
19 is an appropriate issue for discussion in findings.

20  
21 **PUBLIC TESTIMONY:**

22  
23 On question, no member of the public testified with regard to this  
24 application.

25  
26 The public portion of the Public Hearing was closed.

27  
28 Commissioner Johansen expressed his opinion that the proposed  
29 designations are appropriate, adding that he would have preferred to  
30 have the option of considering other options. Concluding, he stated  
31 that he is in support of the rezone, but not the map amendment.

32  
33 Chairman Voytilla agreed with Commissioner Johansen, emphasizing  
34 that it is extremely difficult to motivate employees to walk this  
35 distance in order to ride the light rail during foul weather conditions,  
36 adding that there are basically no pedestrian connections in this area.  
37 He stated that while he is in support of the Rezone, this area should  
38 not be a part of the Merlo Station Community Plan.

39  
40 Commissioner Bliss concurred with the comments and concerns of his  
41 fellow Commissioners, adding that he totally agrees that this area is  
42 outside of any station community area.

43

1 Commissioner Pogue expressed his agreement with the statements  
2 made by his fellow Commissioners.

3  
4 Commissioner Maks expressed his support of the application, adding  
5 that he agree with the comments of his fellow Commissioners.  
6 Observing that he should probably withdraw some of his prior  
7 comments with regard to Washington County, he pointed out that it is  
8 most likely that they applied different standards than those of the City  
9 of Beaverton. Noting that staff had done a good job in an attempt to  
10 apply appropriate designations, he pointed out that although they had  
11 determined an appropriate option, this should not be included in the  
12 Merlo Station Community Plan.

13  
14 Commissioner Winter concurred with the issues and reservations of  
15 his fellow Commissioners.

16  
17 Mr. Naemura commented that the consensus appears to be that the  
18 CPA should reflect the updated designation, zoning should reflect the  
19 employment-related zone, and the Chapter 5 Community Plan should  
20 not be reflected to include that this is a studied re-planned type of  
21 area, because it is inappropriate and the findings would not exist to  
22 take the decision that far. Concluding, he pointed out that this  
23 appears to be the three positions that the Commissioners have taken  
24 with regard to this issue.

25  
26 Commissioner Maks **MOVED** and Commissioner Johansen  
27 **SECONDED** a motion to approve CPA 2002-0009 – SW Koll Parkway  
28 Land Use Map Amendment, based upon the testimony, reports and  
29 exhibits, and new evidence presented during the Public Hearing on the  
30 matter, and upon the background facts, findings and conclusions found  
31 in the Staff Report dated July 8, 2002, with an amendment to page 7,  
32 as follows:

33  
34 Summary Finding: Staff finds that the requested  
35 Comprehensive Plan Change to ~~Corridor~~ **Station Community**  
36 is consistent with the Statewide Planning Goals and the  
37 requirements of Criterion 1.3.1.1 are met.

38  
39 providing the Comprehensive Plan designation of Station Community,  
40 and not including this area in the Merlo Station Community Plan  
41 Figure 1 Land Use Subarea Map.

42  
43 Motion **CARRIED**, by the following vote:  
44



1           **AYES:**       Bliss, Johansen, Maks, Pogue, Voytilla and Winter.  
2           **NAYS:**       None.  
3           **ABSTAIN:** None.  
4           **ABSENT:** Barnard.

5  
6           Commissioner Maks **MOVED** to approve RZ 2002-0017 – SW Koll  
7           Parkway Rezone, based upon the testimony, reports and exhibits, and  
8           new evidence presented during the Public Hearing on the matter, and  
9           upon the background facts, findings and conclusions found in the Staff  
10          Report dated July 8, 2002, with an amendment to page 7, as follows:

11  
12                   Summary Finding:     Staff finds that the requested  
13                   Comprehensive Plan Change to ~~Corridor~~ **Station Community**  
14                   is consistent with the Statewide Planning Goals and the  
15                   requirements of Criterion 1.3.1.1 are met.

16  
17          providing the zoning designation of Station Community-Employment  
18          (SC-E), and not including this area in the Merlo Station Community  
19          Plan Figure 1 Land Use Subarea Map.

20  
21          Mr. Whitworth interjected that SC-E includes three categories, adding  
22          that the purpose of the map amendment was to indicate that this is  
23          Subarea 3, adding that a motion providing for SC-E Subarea 3 should  
24          accomplish the same goal.

25  
26          Commissioner Maks withdrew his motion for approval of RZ 2002-0017  
27          – SW Koll Parkway Rezone.

28  
29          Commissioner Johansen pointed out that he had assumed that the  
30          Subarea designation was tied directly to the Merlo Station Community  
31          Plan.

32  
33          Mr. Whitworth explained that there are other areas that are  
34          designated Transit Oriented-Employment with Washington County,  
35          adding that these would be designated SC-E with the City of  
36          Beaverton.

37  
38          Commissioner Maks noted that page 6 identifies uses that should and  
39          should not be located within ¼ mile of a light rail station.

40  
41          Mr. Naemura indicated out that Associate Planner Scott Whyte has  
42          pointed out that the Development Code pagination might be slightly  
43          reversed in this portion of the books, and referred specifically to page  
44          LU-122, which addresses the SC-E designation.

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to approve RZ 2002-0017 – SW Koll Parkway Rezone, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated July 8, 2002, with an amendment to page 7, as follows:

Summary Finding: Staff finds that the requested Comprehensive Plan Change to ~~Corridor~~ **Station Community** is consistent with the Statewide Planning Goals and the requirements of Criterion 1.3.1.1 are met.

providing the zoning designation of Station Community-Employment (SC-E), Subarea 3.

Commissioner Bliss pointed out that the office space in this area is developed, with several commercial uses, adding that Storage Yards are considered a permitted use under Sub-Area 3, for either landscape materials or contractors. He expressed his opinion that although this is not appropriate as an outright use, he might consider this an appropriate conditional use.

Observing that it is necessary to designate this area SC-E, Commissioner Maks pointed out that Subarea 3 is the only one that fits, adding out that a great deal of the discussion with regard to the Merlo Station Community Plan relates to uses that already exist, including storage facilities of the Beaverton School District, Verizon and Tri-Met. He pointed out that Subarea 2 is not feasible because the property is not located within ½ mile of a light rail station, and suggested that Commissioner Bliss bring up these issues with the Code Review Advisory Committee (CRAC).

Commissioner Bliss stated that he stands corrected.

Motion **CARRIED**, by the following vote:

**AYES:** Bliss, Johansen, Maks, Pogue, Voytilla and Winter.

**NAYS:** None.

**ABSTAIN:** None.

**ABSENT:** Barnard.

7:50 p.m. – Mr. Whitworth left.

1     **B. CUP2002-0016 - PILGRIM LUTHERAN CHURCH CHILD CARE:**  
2     **CONDITIONAL USE PERMIT**

3     Pilgrim Lutheran Church currently operates a private elementary  
4     school between the hours of 8:00 a.m. and 3:30 p.m., Monday through  
5     Friday. The proposed childcare facility would occupy a portion of the  
6     existing classroom space within the church and would operate between  
7     the hours of 6:30 a.m. to 6:30 p.m., Monday through Friday. The maxi-  
8     mum number of children attending the childcare facility at any one  
9     time would be fifty. An area outside the church building, on the north  
10    side of SW 12<sup>th</sup> Avenue, would be fenced and converted to an outdoor  
11    play area. In taking action on the proposed development, the Planning  
12    Commission shall base its decision on the CUP approval criteria as  
13    listed in Section 40.05.15.2.C of the Beaverton Development Code.

14  
15    Observing that he has not recently visited the site, Commissioner Bliss  
16    pointed out that as an official senior citizen, he is familiar with the site  
17    due to his visits to the Elsie Stuhr Center.

18  
19    Commissioners Winter and Pogue indicated that they had visited the  
20    site and had no contact with any individual(s) with regard to this  
21    application.

22  
23    Commissioner Johansen and Chairman Voytilla both stated that they  
24    are very familiar with the site and had participated in the decision  
25    with regard to the applicant's Conditional Use Permit.

26  
27    Observing that he is familiar with and had visited the site and had no  
28    contact with any individual(s) with regard to this application, Com-  
29    missioner Maks offered to assist Commissioner Bliss with his walker.

30  
31    Associate Planner Scott Whyte presented the Staff Report and briefly  
32    discussed the application, including the existing and proposed use of  
33    the site, recommended approval of the application, with five Conditions  
34    of Approval, and offered to respond to questions.

35  
36    Chairman Voytilla requested clarification of how staff intends to  
37    enforce Condition of Approval No. 2, which provides that the childcare  
38    occupancy shall not exceed 50 children at any one time.

39  
40    Mr. Whyte explained that any enforcement would be addressed on a  
41    complaint basis. He pointed out that while this Condition of Approval  
42    clearly establishes a limit, it should not be necessary for staff to  
43    actually go out and check, although this condition could be more  
44    structured, if desired by the Planning Commission.

1 Chairman Voytilla requested clarification of Condition of Approval No.  
2 5, which provides that the childcare program shall be licensed by the  
3 Oregon Employment Department Child Care Division for a maximum  
4 occupancy of 50 children.  
5

6 Mr. Whyte clarified that while this Condition of Approval provides that  
7 the program must be licensed by the State of Oregon, they are already  
8 licensed to provide childcare for 35 children.  
9

10 Commissioner Bliss emphasized that staff should not find it necessary  
11 to police this situation.  
12

13 Mr. Naemura pointed out that he interprets this Condition of Approval  
14 differently, adding that it is his opinion that Conditions of Approval  
15 Nos. 2 and 5 are actually supportive of one another, thereby  
16 eliminating these concerns.  
17

18 Commissioner Maks pointed out that it is debatable whether Condition  
19 of Approval No. 5 should be included in a land use order and expressed  
20 his opinion that the word "may" is more appropriate than the word  
21 "shall".  
22

23 Referring to pages 12 and 13 of the Staff Report, specifically Section  
24 60.40.25, with regard to Uses Requiring Special Requirements, Mr.  
25 Whyte pointed out that the maximum number of children the facility is  
26 proposed to be licensed to care for shall also be supplied.  
27

28 Commissioner Johansen expressed his opinion that it is unlikely that  
29 the State of Oregon would be interested in the City of Beaverton's  
30 criteria and/or conditions.  
31

32 Commissioner Maks suggested that it should be determined whether  
33 the application is actually approved prior to debating wording on the  
34 Conditions of Approval. He discussed the number of vehicular trips  
35 that could potentially be generated at the site, observing that 50  
36 children could create 100 vehicular trips.  
37

38 Mr. Whyte stated that the applicant should be able to address these  
39 issues, adding that they would also clarify how this use interacts with  
40 the existing school.  
41

42 Commissioner Maks questioned how many of these children who would  
43 be attending the childcare facility are also part of the school program,

1 adding that in a childcare situation, children would be dropped off and  
2 picked up at various times throughout the day.

3  
4 Mr. Whyte pointed out that many of the trips related to a childcare use  
5 are typically pass-by trips, as opposed to an actual trip generator.

6  
7 Commissioner Bliss referred to page 6 of the Staff Report, observing  
8 that there are five prior land use issues with regard to this particular  
9 site. He pointed out that several current members of the Planning  
10 Commission had participated in the approval of several of these  
11 applications in the year 2000, noting that many of these original 215  
12 students are still attending and generating traffic at this school  
13 facility.

14  
15 Commissioner Maks emphasized until it can be demonstrated how  
16 many of these children are part of the existing program, this  
17 application would still generate 100 additional vehicular trips for the  
18 50 additional children. He mentioned that more than 20 vehicular  
19 trips within an hour would require the submittal of a traffic  
20 management plan indicating how this traffic would be addressed.

21  
22 Commissioner Bliss noted that the applicant is currently licensed to  
23 operate a childcare facility for 35 children.

24  
25 Commissioner Maks explained that this childcare facility is not  
26 operating at this time.

27  
28 Commissioner Johansen expressed concern with compatibility with the  
29 existing neighborhood, particularly along SW 12<sup>th</sup> Street and the fence,  
30 and questioned what the view would be for those individuals who  
31 reside on SW 12<sup>th</sup> Street.

32  
33 Mr. Whyte explained that he is not certain at this time what color the  
34 vinyl coated chain link fence would be, adding that a picture, including  
35 the elevation, has been provided, illustrating the view from SW 12<sup>th</sup>  
36 Street.

37  
38 Chairman Voytilla advised Commissioner Johansen that the applicant  
39 would most likely address this issue with regard to the fence and any  
40 other proposed screening materials.

41

1        **APPLICANT:**

2  
3        **HELEN HANSON**, representing *Pilgrim Lutheran Church*,  
4        commented with regard to page 8 of the Staff Report, specifically  
5        existing site conditions, observing that although this section indicates  
6        that access to parking lot and school entrance is available via SW Hall  
7        Boulevard, this statement is not correct and no entrance exists at this  
8        location.  
9

10       Mr. Whyte confirmed this typographical error, pointing out that the  
11       entrance to the school is only available via SW 12<sup>th</sup> Street.  
12

13       Ms. Hanson explained that two separate parking lot entrances exist on  
14       SW 12<sup>th</sup> Street. Referring to page 13, she pointed out that childcare  
15       licensing is under the jurisdiction of the Oregon Employment Division  
16       Child Care, rather than Children's Services Division. She referred to  
17       page 15, noting that although only 16 parking spaces are required, 79  
18       parking spaces have been provided. Observing that the Staff Report  
19       states that school and day care use will not operate at times that will  
20       interfere with worship services or other church activities, she pointed  
21       out that this isn't exactly true. Noting that a temple worship service  
22       for the day school is scheduled at 8:30 a.m. on Wednesdays, she  
23       explained that these services are available to the parents of the  
24       students and church members. She mentioned that while both the  
25       childcare and school are actually ministries of the church, she  
26       expressed her opinion that it would be difficult to totally separate  
27       these from one another. Pointing out that some joint functions such as  
28       Christmas performances and talent shows are scheduled, she noted  
29       that there would be times when church activities would occur while the  
30       childcare and school are operating. Emphasizing that the applicant is  
31       always cognizant of parking and traffic issues, she expressed her  
32       opinion that their relationship with the City of Beaverton and lack of  
33       complaints is clear evidence of this fact.  
34

35       Referring to paragraph 3 on page 15 of the Staff Report, which  
36       addresses the demand for on-site parking, circulation and other related  
37       matters in the event that the school expands in the future, Ms. Hanson  
38       pointed out that the site itself is fully developed, emphasizing that  
39       there is no plan or ability for any future additions to the facility. She  
40       noted that requiring the applicant to return to obtain permission for  
41       any additional or new school program might potentially conflict with  
42       First Amendment, adding that she would prefer that this section be  
43       eliminated from the Conditional Use Permit and addressed in some  
44       other manner. She referred to page 17 of the Staff Report, which

1 provides that staff notes that student enrollment is limited to the size  
2 of classroom facilities and that any increase to enrollment would  
3 require expansion of classroom facilities which would require  
4 modification to CUP approval under Section 40.05.15.1.F of the Code,  
5 she suggested that this issue has already been addressed, adding that  
6 it is not necessary that this be restated here.

7  
8 Ms. Hanson mentioned the previously discussed Conditions of  
9 Approval, specifically with regard to the construction of a five-foot  
10 fence prior to operating the childcare service, noting that because the  
11 site is adjacent to the Elsie Stuhr Center and playground, the children  
12 have always utilized this facility for large muscle skills. She pointed  
13 out that this has always been permitted by Tualatin Hills Park &  
14 Recreation District (THPRD), emphasizing that there have never been  
15 any complaints, adding that the school and church families had  
16 actually raised approximately \$16,000 towards the purchase and  
17 installation of this playground equipment. She explained that as a  
18 former member of the congregation of Pilgrim Lutheran Church, Elsie  
19 Stuhr had actually wanted to donate the land to the church, adding  
20 that the donation had not been accepted because it had not been  
21 anticipated that the church would ever actually need this additional  
22 land. She requested some leniency with regard to allowing the  
23 applicant 60 days in which to erect a fence, adding that the State  
24 Licensing Agency has provided verbal approval for the use of the Elsie  
25 Stuhr Center Facility. She explained that the church also has a  
26 gymnasium and an atrium, pointing out that the facility is 30,000  
27 square feet in size, and that the children would not be deprived in any  
28 way during this 60-day period of time. She referred to Condition of  
29 Approval No. 4, observing that because this replicates some of the  
30 similar statements that have been reviewed and addressed this  
31 Condition of Approval should be eliminated. Referring to Condition of  
32 Approval No. 2, she suggested that this issue would be addressed by  
33 the Director of the Child Care Center, Susan Sleeman.

34  
35 **SUSAN SLEEMAN**, representing *Pilgrim Lutheran Church*, pointed  
36 out that the purpose of obtaining this permit is to be licensed for 50  
37 children to regularly attend the childcare center. Observing that there  
38 are many days throughout the year when the school students are not  
39 in session and require care, she pointed out that the applicant would  
40 like permission to care for these particular students on those days,  
41 adding that this would be in addition to the regular 50 children. She  
42 explained that because the school would not be in session on those  
43 days, the traffic would not be increased, noting that additional  
44 classroom space is also available at this time. She stated that it is

1 anticipated that approximately 15 students would take advantage of  
2 this service if it were available. She explained that State licensing  
3 requirements do not require a five-foot chain link fence around a play  
4 area for school-aged children, from Kindergarten on up, adding that  
5 they had been given permission to utilize the playground at the Elsie  
6 Stuhr Center for these school aged students. She pointed out that the  
7 number of school-aged children allowed at the site would be  
8 determined by the available square footage at the facility, and clarified  
9 that the application requests approval to provide childcare for 50  
10 regularly attending students, with the opportunity to also care for  
11 school-aged children when school is not in session.

12  
13 Ms. Hanson referred to Condition of Approval No. 5, adding that she is  
14 not certain with regard to the purpose of this condition in relationship  
15 to the purpose of the Development Code. She encouraged the City of  
16 Beaverton to discuss allowing the Oregon Employment Child Care  
17 Division to establish the number of children that would be allowed to  
18 be cared for at this facility. Emphasizing that this division enforces  
19 incredibly strict standards based upon the available square footage,  
20 she pointed out that that they drop in unannounced and check the  
21 facilities with regard to issues such as head lice, restrooms, hand  
22 washings, enrollment and caregivers. She pointed out that both  
23 Washington County and the State Fire Marshall would inspect the  
24 facility and that certain occupancy parameters must be met. Noting  
25 that certain school accreditation standards are involved, she explained  
26 that these standards are higher than those imposed by the State  
27 educational system. She emphasized that unlike the public school  
28 system, if the parents are not satisfied, the children will be removed  
29 and placed elsewhere.

30  
31 Commissioner Johansen referred to page 13 of the Staff Report, with  
32 regard to the fence, and questioned what the view would be for those  
33 individuals who reside in the neighborhood across the street,  
34 specifically whether they would be looking at only a chain-link fence or  
35 additional screening would soften the appearance of the fence.

36  
37 Ms. Hanson observed that although the chain-link fence is a  
38 requirement, it is not actually a part of this specific application, adding  
39 that the fence has been approved by the City of Beaverton through a  
40 Type 1 Design Review.

41  
42 Commissioner Johansen advised Ms. Hanson that the Planning  
43 Commission has authority with regard to neighborhood compatibility,



1 emphasizing that addressing this issue satisfactorily would make the  
2 CUP process easier.

3  
4 Ms. Hanson informed Commissioner Johansen that Ms. Crabtree of  
5 the Beaverton Planning Staff had indicated that the City generally  
6 approves the chain-link vinyl-coated fencing, adding that the  
7 Development Code also states that there is not to be a visual  
8 impairment created by this fence.

9  
10 Commissioner Bliss questioned whether the applicant would be willing  
11 to install a black vinyl-coated chain-link fence without slats.

12  
13 Ms. Hanson informed Commissioner Bliss that she believes that the  
14 applicant has proposed a black vinyl-coated chain-link fence without  
15 slats.

16  
17 Commissioner Bliss expressed his opinion that the black chain-link  
18 fence basically fades away and is not readily noticeable, adding that  
19 slats create a barrier, which he could not support.

20  
21 Commissioner Johansen emphasized that he would like to be able to  
22 evaluate exactly what the impact would be to the neighborhood, and  
23 requested clarification of how the children would be prevented from  
24 exiting the site through the unlocked gates.

25  
26 Observing that the gates are actually considered fire exits, Ms. Hanson  
27 pointed out that these children would never be unattended.

28  
29 Ms. Sleeman commented that she knows from personal experience that  
30 a 14-year-old would climb a fence, if necessary, in order to leave, even  
31 if staff is present.

32  
33 On question, Ms. Sleeman noted that it is necessary for the State to  
34 approve the playground facility, adding that although the City of  
35 Beaverton's Development Code requires a five-foot fence, the State  
36 requires a four-foot chain link fence.

37  
38 Chairman Voytilla questioned whether staff has evaluated this fence  
39 for site visibility since it is directly adjacent to the access point to the  
40 parking lot.

41  
42 Mr. Whyte informed Chairman Voytilla that he does not believe that  
43 staff had reviewed this with regard to sight distance, observing that  
44 the proposal involves an open-weave type of fence. He pointed out that

1 because there is a fire hydrant located on the corner, the fence would  
2 be constructed with a beveled edge. He suggested the possibility of  
3 having this issue reviewed by the City Traffic Engineer to make  
4 certain that all concerns are addressed appropriately.  
5

6 Chairman Voytilla pointed out that the Planning Commission could  
7 also include a Condition of Approval that would resolve this issue,  
8 emphasizing that a lot of questions have not been addressed.  
9

10 Ms. Hanson questioned the possibility of allowing a variance for a four-  
11 foot fence, rather than the five-foot fence required by the Development  
12 Code.  
13

14 Chairman Voytilla advised Ms. Hanson that he is more concerned with  
15 the impact of visibility upon the neighborhood than the height of this  
16 fence, emphasizing that this impact could potentially affect safety.  
17

18 Mr. Whyte pointed out that the fence is required to be at least five feet  
19 in height and not more than six feet in height, per the Development  
20 Code.  
21

22 Chairman Voytilla questioned the maximum capacity of the facility,  
23 based upon the inspections that have been conducted.  
24

25 Ms. Hanson informed Chairman Voytilla that the current school  
26 facility includes pre-school three-year-olds through 8<sup>th</sup> Grade, adding  
27 that the existing classrooms have the capacity for 250 children.  
28

29 Chairman Voytilla pointed out that other elements beyond classrooms,  
30 including food services and restroom facilities, have the ability to limit  
31 such a facility.  
32

33 Ms. Hanson pointed out that Pastor Michael Bailey had informed her  
34 that the current capacity at the facility is for between 250 and 260  
35 children.  
36

37 Ms. Sleeman clarified that the facility does have all of the required  
38 restrooms.  
39

40 Assuring Ms. Sleeman that he is not questioning whether adequate  
41 facilities are available, Chairman Voytilla explained that he is  
42 basically attempting to determine the size of the existing and proposed  
43 programs. He questioned whether any written agreement exists with  
44 the Elsie Stuhr Center with regard to use of the facilities.

1 Ms. Hanson stated that there is no written agreement at this time.

2

3 Chairman Voytilla advised Ms. Hanson that a verbal agreement could  
4 be terminated at any time. He described his concerns with regard to  
5 issuing a CUP, observing that such a permit runs with the land and  
6 could create certain issues if the church were to sell the facility to  
7 another individual or entity. Observing that the parking requirements  
8 for the facility are based upon total occupancy, he mentioned that he is  
9 concerned with the shared parking with the Elsie Stuhr Center and  
10 the potential for spillover into adjacent neighborhoods when several  
11 events occur simultaneously.

12

13 Ms. Hanson deferred this issue to **MICHAEL P. BAILEY**, Pastor of  
14 *Pilgrim Lutheran Church*, who advised Chairman Voytilla that a  
15 formal agreement with regard to this issue does not exist at this time.  
16 He pointed out that visitors to the Elsie Stuhr Center occupy an  
17 average of 20 parking spaces between the hours of 10:00 a.m. and 2:00  
18 p.m. He mentioned that both the church and the center work together  
19 to accommodate any special events, such as a funeral or a Christmas  
20 bazaar.

21

22 Commissioner Maks requested clarification of whether the application  
23 before him at this time requests permission for 50 children in the  
24 childcare facility and the ability to provide for additional children  
25 when school is not in session. He emphasized that although he  
26 understands the request for additional children when school is not in  
27 session, this is not included in the application that is being reviewed by  
28 the Planning Commission at this time. He questioned how many of the  
29 50 regular students are also existing students.

30

31 Observing that she is unable to provide the specifics without  
32 enrollment, which is not available at this time, Ms. Sleeman stated  
33 that based upon the information she has available at this time, 16 of  
34 the students would be school-age students who already attend the  
35 existing school. She explained that some of the pre-school students  
36 currently attending the school would also be involved in the childcare  
37 center, adding that this would increase the number.

38

39 Commissioner Maks pointed out that based upon the letter, there  
40 would never be a maximum of 50 children in the childcare program.

41

42 Ms. Hanson disagreed, stating that she had indicated that it is not  
43 common to have a set of children attend until noon and leave, at which

1 time another full set of children would attend for the remainder of the  
2 day, adding that it is more typical for a child to attend the entire day.

3  
4 Commissioner Maks requested clarification of how many children  
5 would be enrolled in the childcare center.

6  
7 Ms. Hanson advised Commissioner Maks that she is unable to respond  
8 until these children are actually enrolled.

9  
10 Commissioner Maks requested clarification of the maximum number of  
11 students that would be enrolled in the childcare center.

12  
13 Commissioner Maks requested clarification of where the applicant has  
14 addressed Development Code Section 60.60.10.

15  
16 Ms. Hanson advised Commissioner Maks that she is unable to respond  
17 to this question.

18  
19 Commissioner Maks pointed out that although everyone wants a  
20 church and a school in their neighborhood, these facilities generate the  
21 number one complaint with regard to impact in a residential  
22 neighborhood. He questioned whether this school would create more  
23 than 20 additional trips within a period of one hour on that  
24 neighborhood street.

25  
26 Ms. Hanson responded that when she had prepared the narrative for  
27 this review, she had assumed that any concerns should have been  
28 addressed in the review that had occurred in the year 2000 for the \$2.5  
29 Million church facility expansion that affected the school church  
30 facility expansion. She emphasized that no issues had been raised at  
31 that time indicating that there were any concerns by either the City of  
32 Beaverton or the community with regard to traffic impact in the  
33 neighborhood. She pointed out that because some of the children who  
34 attend the school would be arriving at the childcare facility between  
35 6:30 a.m. and 8:00 a.m., this would actually eliminate some of the  
36 traffic that exists at this time, adding that these students would no  
37 longer be arriving at the same time as the remaining students.

38  
39 Commissioner Maks requested that Ms. Hanson respond to his ques-  
40 tion, specifically whether this school would create more than 20 addi-  
41 tional trips within a period of one hour on that neighborhood street.

42  
43 Ms. Hanson informed Commissioner Maks that this is the only answer  
44 she has for him.

1 Commissioner Maks advised Ms. Hanson that codes change,  
2 emphasizing that while this was not among the approval criteria in the  
3 year 2000, it is necessary to address this criteria at this time. He  
4 mentioned that the present CUP provides for 200 students at the  
5 school

6  
7 Ms. Hanson disagreed, observing that the CUP does not indicate any  
8 specific number of students for the school.  
9

10 Mr. Whyte referred to the Staff Report for the Planning Commission  
11 hearing of January 26, 2000, which was prepared by staff on January  
12 19, 2000, pointing out that while the number of students was not  
13 necessarily referenced within the Land Use Order, the Staff Report  
14 specifically references 215 students. He mentioned that a two-page  
15 letter from a Traffic Engineer, provided as an attachment of the Staff  
16 Report of January 26, 2000, has been included, adding that this  
17 document also references 215 students.  
18

19 Commissioner Maks requested clarification of whether the CUP allows  
20 the applicant to serve a specific number of students.  
21

22 Ms. Hanson commented that the applicant's CUP allows for the  
23 operation of a school.  
24

25 Commissioner Maks pointed out that when this had been approved,  
26 the Planning Commission had been concerned with regard to the  
27 occupancy of the school facilities and worship facilities simultaneously.  
28

29 Observing that she had not been involved, Ms. Hanson responded that  
30 she does not have this information.  
31

32 Chairman Voytilla reiterated his concern with regard to a CUP  
33 running with the land.  
34

35 Commissioner Maks pointed out that Ms. Hanson indicated that she  
36 had a problem with Condition of Approval No. 4, adding that the  
37 previous CUP, in some fashion, limits occupancy.  
38

39 Pastor Bailey explained that he only anticipates that there would be  
40 an issue with double occupancy during a funeral service.  
41

42 9:18 p.m. to 9:30 p.m. – break.  
43

1        **PUBLIC TESTIMONY:**

2  
3        No member of the public testified with regard to this application.

4  
5        Mr. Whyte referred to Development Code Section 60.60.10, adding that  
6        this is briefly referenced in Staff Report at the bottom of page 19, in  
7        response to approval criteria no. 3. Emphasizing that the application  
8        has been deemed complete, he pointed out that it is up to the discretion  
9        of the City Engineer to determine whether a Traffic Study is required.

10  
11       Commissioner Maks pointed out that this would involve a Traffic  
12       Management Plan, which addresses very nominal vehicular trips on a  
13       neighborhood, rather than a Traffic Impact Analysis, which would  
14       address a higher traffic generator.

15  
16       Mr. Whyte mentioned that although no Traffic Management Plan has  
17       been associated with this proposal, the application has been deemed  
18       complete, adding that staff does not feel that it is appropriate to  
19       require this document at this time. With regard to the applicant's  
20       comments concerning the proposed Conditions of Approval, he pointed  
21       out that staff maintains that the fence should be in place prior to  
22       operation of the childcare facility. He expressed his opinion that some  
23       limitation with regard to the number of children allowed at this facility  
24       should be established, and suggested that Condition of Approval No. 4  
25       be revised, as follows: "...or the introduction of any ~~other~~ **new** school  
26       program..." He pointed out that staff would not object to eliminating  
27       Condition of Approval No. 4, which is actually already included within  
28       the Development Code, adding that this Condition of Approval actually  
29       benefits the applicant.

30  
31       Commissioner Maks suggested the possibility of revising Condition of  
32       Approval No. 4, as follows:

- 33  
34           4.     Pursuant to Section 40.05.15.1.F of the Development  
35           Code, separate Conditional Use Permit approval shall be  
36           required for any future expansion to occupancy associated  
37           with the day care facility, or **occupancy** expansion  
38           associated with the existing elementary and middle  
39           schools ~~program, or the introduction of any other school~~  
40           ~~program that utilizes church and school facilities.~~

41  
42       Chairman Voytilla questioned how this revision addresses non-school  
43       activities.  
44

1 Commissioner Maks advised Chairman Voytilla that the word  
2 "occupancy" addresses any non-school activities.

3  
4 Mr. Whyte indicated that the key word involved is program.

5  
6 Mr. Naemura indicated that he has no questions or comments with  
7 regard to this application.

8  
9 The public portion of the Public Hearing was closed.

10  
11 Commissioner Bliss stated that with the exception of the traffic issues,  
12 he would prefer to defer to the experience of his fellow Commissioners,  
13 adding that he believes that the application has met the applicable  
14 criteria. He expressed his approval of Commissioner Maks' revisions  
15 to Condition of Approval No. 4, reiterating that he would like further  
16 direction with regard to traffic issues prior to making a decision.

17  
18 Chairman Voytilla agreed with Commissioner Maks' modification to  
19 Condition of Approval No. 4, expressing his opinion that the other  
20 Conditions of Approval should remain. Emphasizing that he is  
21 concerned with the CUP, which runs with the land, he pointed out that  
22 information with regard to the prior approval should be clarified,  
23 adding that he is not able to support this application at this time.

24  
25 Commissioner Maks stated that while he is in favor of this proposal,  
26 which provides a very good use and a natural expansion of this facility,  
27 he is unable to support this application without further information.  
28 Observing that he disagrees with staff, he noted that this Planning  
29 Commission had drafted this Traffic Management Plan to be reviewed,  
30 rather than ignored by staff. He pointed out that the burden of proof  
31 with any land use action lies with the applicant, adding that this has  
32 not been established here, although ample opportunity has been  
33 provided. He emphasized that although traffic does not appear to be  
34 an issue, it is necessary to follow the rules.

35  
36 Commissioner Johansen concurred with the statements of his fellow  
37 Commissioners, adding that because he is not comfortable with the  
38 traffic or parking aspects of the proposal, additional information would  
39 be needed before he could support this application.

40  
41 Commissioner Pogue pointed out that staff had deemed the application  
42 complete, adding that he understands Commissioner Maks' concern  
43 with usurping the Development Code.

44

1 Mr. Naemura explained that by deeming an application complete, staff  
2 had fulfilled the statutory requirement to actually start the 120-day  
3 clock and determine which criteria would be used. He noted that it is  
4 also necessary to determine which evidence would be substantial and  
5 relevant to the criteria.

6  
7 Commissioner Pogue requested clarification of whether the applicant  
8 had been informed by staff that it would not be necessary for them to  
9 address traffic issues.

10  
11 Mr. Whyte explained that all special studies are required and reviewed  
12 as part of the application completeness procedure, emphasizing that  
13 this involves more than a quick review.

14  
15 Observing that he is struggling with the possible implication that this  
16 information was not necessary, Commissioner Pogue stated that while  
17 he is in favor of the proposal, he is unable to support this application  
18 until further information is provided.

19  
20 Commissioner Maks noted that the applicant has the right to submit a  
21 document indicating that the application is complete, at which time  
22 the application must legally be deemed complete within 30 days, even  
23 without a Traffic Study.

24  
25 Commissioner Winter stated that although he supports the spirit of  
26 the proposal, he shares the concerns expressed by his fellow  
27 Commissioners and is unable to support this application without  
28 additional information.

29  
30 Commissioner Bliss pointed out that after listening to his fellow  
31 Commissioners, he has determined that he is unable to support this  
32 application on the basis of available information.

33  
34 Chairman Voytilla stated that the general consensus is not in support  
35 of approving this application.

36  
37 As a courtesy to the applicant, Mr. Whyte suggested that they be  
38 provided with the ability to request a continuance, with a limited  
39 waiver of the 120 days, adding that it is appropriate to reopen the  
40 Public Hearing to provide this opportunity to the applicant.

41  
42 Chairman Voytilla reopened the Public Hearing.

43



1 Ms. Hanson requested a continuance to allow the applicant the  
2 opportunity to provide the information requested by the Planning  
3 Commission.

4  
5 Chairman Voytilla questioned whether Mr. Whyte has the appropriate  
6 documentation for the applicant to sign for a limited waiver of the 120  
7 days.

8  
9 Mr. Whyte explained that there would be a general understanding  
10 with regard to a limited waiver of the 120 days, limited to time of  
11 continuance, adding that it is necessary to determine an appropriate  
12 date for this continuance.

13  
14 On question, Ms. Hanson advised Chairman Voytilla that the  
15 applicant could have this information to staff within two weeks.

16  
17 Chairman Voytilla pointed out that staff would need a week with  
18 which to review the information and prepare a Supplemental Staff  
19 Report.

20  
21 Mr. Whyte suggested that the Public Hearing be continued to a date of  
22 September 18, 2002.

23  
24 Commissioner Johansen suggested that the applicant should make  
25 certain that there is a meeting of the minds with staff to discuss and  
26 address concerns prior to the continuance.

27  
28 Commissioner Maks **MOVED** and Commissioner Pogue **SECONDED**  
29 a motion to continue CUP 2002-0016 – Pilgrim Lutheran Day Care  
30 Conditional Use Permit to a date certain of September 18, 2002, in  
31 order to address issues with regard to traffic, parking, and occupancy,  
32 as well as specific written documentation with regard to perpetual  
33 shared use of the parking facilities with the Elsie Stuhr Center.

34  
35 Motion **CARRIED**, unanimously.

36  
37 **MISCELLANEOUS BUSINESS:**

38  
39 The meeting adjourned at 10:07 p.m.